FOR IMMEDIATE RELEASE

Egyptian Regional Human Rights Authority
Choate Developmental Center
Report of Findings
Case #23-110-9003
May 11, 2023

The Egyptian Human Rights Authority (HRA) of the Illinois Guardianship and Advocacy Commission voted to pursue an investigation of Choate Developmental Center after receiving the following complaints of possible rights violations:

Complaints:

1. **Inadequate treatment planning**
2. **Inadequate medical care**

If the allegations are substantiated, they would violate protections under The Mental Health and Disabilities Code (405 ILCS 5/2-102, 405 ILCS 5/3-209, and 405 ILCS 5/2-211).

Complaint Summary: The complaint alleges the individual sustained a loose tooth from an incident with a peer. Allegedly, the facility did not seek dental treatment for the individual in a timely manner. Additionally, the complaint alleges inadequate treatment planning for not transferring the individual to a facility closer to the family as requested. Allegedly, the family would like the individual moved to a facility closer to them, so visitation is easier, and they can visit more frequently.

Investigation:

The HRA proceeded with the investigation after having received proper consent. To pursue the matter, the HRA met with staff and the program representatives were interviewed. Relevant practices, policies and sections of the consumer's record were reviewed.

Interviews:

On 10/19/2022 the HRA met virtually with staff at Choate Developmental Center. The staff provided some general information about Choate Developmental Center. Staff stated Choate Developmental Center has a developmental disabilities unit which currently houses 232 residents. There is also a mental health unit which currently has approximately 42 residents. Staff stated additionally there is a forensics unit. Choate Developmental Center is budgeted for 560 employees but currently employs approximately 450 employees facility-wide. All staff are provided orientation upon hire where they are trained on policies and procedures as well as human rights, abuse, and neglect. The orientation training is 3 weeks long. However, if an employee needs additional training then orientation can be extended.

Staff stated the individual came to Choate in June 2009 from another facility. The individual was deemed unfit to stand trial for criminal charges. However, in 2010 the charges against the individual

were dismissed. Staff stated they have a treatment plan policy. Staff stated most residents at Choate have an Individual Support Plan (ISP) and a Behavioral Intervention Plan (BIP). Staff stated the Qualified Intellectual Disabilities Professional (QIDP) develops and monitors the ISP. Staff explained the ISP is reviewed annually but can also be updated if needed. This individual's ISP was last updated in May 2022. Staff stated the guardians are involved in the individual's ISP development and meetings.

Staff stated the guardian has requested that the individual be moved to another treatment facility in April 2021 to be closer to the guardians. Staff stated the guardian wanted to tour the facility before any transfer took place, however, the other facility was not allowing tours due to Covid-19. The guardian again made the request in April or May 2022 to transfer the individual and tour the facility that is closer to her home. Staff advised the guardian to fill out a formal request and submit the request to the administrator. Staff stated the guardian provided a formal letter requesting the transfer in April 2021 to the other facility but due to COVID-19 a tour was not possible. Staff have advised the guardian to fill out another request. Staff stated typically when an individual or guardian requests a transfer, the directors of both facilities will get together to discuss the request. Staff stated the length of time it takes for a resident to be transferred depends on many factors including bed availability at the facility. Staff stated they are not aware of any behavioral issues with the individual that might delay or prevent a transfer.

Staff stated on 6/20/22, the individual and another peer got into an altercation. Staff stated the individual was struck in the face and the individual's tooth became loose from the altercation. Staff stated the individual was seen by a nurse and placed on medical 1:1 to monitor his condition. Staff stated the individual was able to eat and did not complain about the loose tooth or pain. Staff stated Choate's dentist was not able to see the individual due to the unit being on restrictions from positive Covid-19 cases. Staff stated they contacted a local dental center that they have worked with in the past and the earliest available appointment was 7/28/22. Staff stated there is another dental office in town, but that office was not contacted since Choate has not worked with that office in the past. Staff stated on 7/11/22 they contacted the Choate dentist again, but the dentist still was not able to see the individual due to the outbreak status. Staff stated the soonest they could get an appointment was 7/28/22. The individual was monitored closely by nurses since the individual was not able to get into the dentist for over a month.

Staff stated the individual was seen for a consult on 7/28/22 and given antibiotics because of a tooth infection due to the injury. The individual went back to the dentist on 8/4/22 and had the tooth removed. Staff stated the dentist explained the tooth was not salvageable. Staff stated the individual needed to see an oral surgeon to have an implant for the missing tooth. The individual was seen by an oral surgeon on 10/7/22, and had the implant inserted by the oral surgeon on 10/17/22. Staff stated the individual must return to the oral surgeon within the month for a follow up. However, the oral surgeon cannot place the crown so the individual will need to see a dentist in 3 months to have the crown put on.

Choate stated if there is an emergency situation, they call the dental office and get the individual in as soon as possible. Staff stated if the dentist cannot get the resident quick enough, then the only other option is to take the individual to the emergency room. Staff stated the individual did not have issues eating and did not complain of pain, so it appeared his loose tooth was not an emergency situation. Staff stated they did everything they could to get the individual seen by a dentist sooner, but they are limited to the dentist's availability.

Policy Review:

The HRA reviewed Choate's policy titled "Diagnosis and Treatment of Acute Illness" that states "The timely recognition of acute illness requires direct care staff to be aware of the change and the signs and symptoms of acute illness to allow prompt reporting to nursing personnel. Nursing staff must communicate in a timely manner, any signs and symptoms to a physician. Nursing history, including health risks and allergies must be kept current to ensure the nurse has accurate information. An acute illness/injury is an illness/injury characterized by signs and symptoms of short duration that are sufficiently server to impair the person's normal functioning. The acute illness/injury requires immediate medical attention by a physician, either on grounds or in an acute care facility. The signs and symptoms of an acute illness will be recognized by the staff in a timely fashion and immediately reported to a nurse. These include: all accidents and injuries; all complaints of illness or complaint of pain; all physical and behavioral changes differing from the individual's norm. The nurse will first perform a full nursing assessment, including vital signs and a physical assessment with careful attention to the affected system. The nurse will swiftly and as appropriate contact a physician to assess any acute problems with potential for serious consequences. In the event the physian does not respond to the unit nurse within 2 hours, notify the Director of nursing and Medical Director…Any assessment by a nurse of an individual with an acute illness must be documented in the progress notes immediately following the evaluation…The physician and nurse will ensure that the individual is evaluated until the episode of illness is resolved. Resolution must be documented by the physician. Documentation during the course of the illness will accurately reflect the course of the illness and the heath status of the individual. All members of the team will be aware of the acute illness and be aware of any modifications necessitated by the illness of the habitation plan. Persons with an acute illness require appropriate observation to facilitate timely and appropriate interventions. All illnesses should be monitored from diagnosis through treatment to final resolution. The nature and frequency of the follow-up evaluation should be appropriate to the nature and seriousness, or potential seriousness, of the acute condition utilizing acute care guidelines. Communication concerning an individual's needs, clinical status and response to treatment should be made to every member of the team as appropriate."

The HRA reviewed "Completion of Nursing Assessment" that states "…every individual admitted shall have a comprehensive nursing assessment by a Registered Nurse. Nursing assessment shall be used to formulate nursing diagnosis and interventions reflecting the needs of the individual. Assignment of nursing care to the individual shall be based on the qualifications of nursing and other direct care staff who provide it…".

The HRA reviewed Choate's "Dental Services" policy that states "The Clyde L. Choate Developmental Center recognizes the need to provide dental care as a component of it's medical and health services. The Dental Program shall offer dental assessment to its new admissions, prophylactic dentistry, routine dental care and emergency dental care all of which are integrated into the recipient's total treatment plan. Referrals shall be made for those individuals requiring extensive specialized dental rehabilitation including oral surgery to appropriate qualified resources in the community. The Dental Program shall be under the direction of a licensed dentist. Each individual will receive an appropriate oral examination by a licensed dentist that is updated annually, earlier if the individual is showing signs or expresses dental discomfort, or any other dental concerns the individual might have."

The HRA reviewed Choate's policy titled "Individual to Individual Aggression" that states "When incidences of peer-to peer aggression occur, a special team meeting should be coordinated by the Qualified Intellectual Disabilities Professional (QIDP) and held within 2 workdays of the event. Special circumstances including (but not limited to) a guardian request for a date beyond the identified parameters or cases in which an individual requires an interpreter/translator who is not

readily available; all efforts will be given to ensure the meeting will be completed as close to these parameters as possible. The reason for the delay must be identified in the body of the final report."

The HRA reviewed Choate's policy "Duties and Responsibilities of a QIDP" that states "The QIDP reviews the ISP monthly to ensure that progress is being made and that all programs and services are being provided as needed…Reviews medical habilitation progress notes written since the last time of the last monthly review to ensure major issues, concerns, or conditions affecting the individual have been addressed. Ensures each individual has a monthly review during each calendar month on a regularly scheduled basis.

Records Review:

The HRA reviewed an "Evaluation of Injuries" dated 6/20/22 for the individual that states "[Individual] and a peer were joking. [Individual] got upset and attacked his peer…was punched in the mouth by peer."

The HRA reviewed the "injury report" for the individual dated 6/20/22 that states "front tooth has become loose. Guns swollen, bleeding." Under treatment it states, "ice pack, Tylenol, mouth rinse".

The HRA reviewed a dental referral for the individual that states "loose tooth due to trauma" The referring physician signed the referral on 6/21/22. The consultation states "pt present with pain and hx of trauma to tooth 8. 1PA and limited exam cracked root and abscess… Will have pt return next week to extract after legal guardian signing consent." The consultation was signed by another physician on 7/28/22. There was another dental referral for the individual on 7/28/22 that states "F/U 1 week for extraction #8." The consultation states "Pt present for extraction tooth #8 due to abscess, trauma…". The consultation was by another physician on 8/4/22.

The HRA reviewed an email dated 10/5/22 that states "…10/7/22 at 12:30pm to Oral Surgery, Belleville for consult for P.A image of gun line and possible implant #8. Vehicle is scheduled and should leave at approx. 10:00a.m." There was another email dates 10/7/22 that states "[Individual] was seen by Oral Surgeon today, and [Individual] is scheduled for the implant of tooth #8 on 10/17/22 at 9:00a.m."

A progress note dated 6/20/22 was reviewed and states "[Individual] was involved in a peer to peer where he was the victim, getting punched in the mouth. Upon assessment it was noted that the front right tooth had become loose. Bleeding and swollen gums were noted. Ice pack given; Tylenol given. MD notified and placed [Individual] on medical 1:1 for observation. Guardian was notified of injury. Writer also called [Individuals] dentist who stated there was nothing they would be able to do and he would need to be seen by a dental surgeon. Writer relayed this information to the guardian. Will follow up with a dental appointment as soon as possible."

The HRA reviewed the individual's treatment plan dated 5/10/22 that states "…Generally, [Individual] is happy with his life at Choate. Once he is discharged, he would like to live closer to his parents in O'Fallon, IL. Any future placement should be a structured environment that allows [Individual] to develop a routine. He is most successful when he knows what to expect day to day…[Individual] has experienced stable health this annual. He was examined and treated for otitis media and bronchitis, both resolving with no complication. [Individual] received his annual influenza vaccine and Covid booster. [Individual] enjoyed several home visit with his family…Dental: Not available at this time…[Individual] was admitted to Choate Forensic Unit on 6/17/09 as Unfit to Stand Trial on charges of Domestic Battery…He was transferred from [local behavioral health center] where he had been since 2/25/09 because of the same charges and a court

order for fitness restoration…the court determined that [Individual] would be unable to attain fitness and moved to dismiss his charges. His legal status changed to Administrative on 3/10/10. He has a history of psychiatric treatment and medications are monitored by a psychiatrist…Transition goal for community placement or for increased independence and integration while living at Choate Center. [Individual] has access to the community and enjoys shopping/dining. He has access to medical care within the community. Access to the community is provided with supervision and provides him with opportunities to integrate within the community. Access to the community is provided with staff supervision. He will work towards stabilizing his maladaptive behaviors. He has expressed an interest that he would like to move into a group home near his family however he has not shown the level of behavioral control needed to be able to be managed within the community. [Individual] input on where he lives at Choate Center: he has expressed an interest in transition planning. He wants to be placed in a CILA home. [Individual's] parents serve as his guardians. Historically, they have declined discharge planning because [Individual] has improved and stabilized within his current environment. His parents have expressed that they would like to have [Individual] live closer to them and have discussed possibly requesting a transfer to [another facility]. They will receive residential option survey and transition planning will be discussed during his annual. They are aware of the community options available to him and continue to receive. The social worker has provided education and support on transition into the community…Transition Goal for Community Placement or for Increased Independence and Integration While Living at Choate Center: [Individual] will continue to have access to the community while living at Choate. He will continue to work on increased independence here at Choate…".

The HRA reviewed email communication between Choate staff and staff at another treatment facility closer to the guardian's home. On April 30th, 2021, staff at Choate sent an email to the other facility that states "We have a guardian who would like their loved one to be transferred closer to home. The guardian has requested to tour [Center] and meet members of potential treatment teams before submitting a formal request for transfer…". On May 12th, 2021, the other facility sent the following response "I'm sorry, but we are in outbreak status of COVID at [Center] right now. We will have to get back with you when it is a good time for the guardian to tour and meet staff." On June 2nd, 2022, Choate staff sent another email to the other facility that states "We have a guardian request to tour [Center] and meet members of potential treatment teams to determine if they want to submit a request to transfer. When the request was made last year, the COVID guidelines and outbreak status made a tour impossible. The family would like to schedule that tour and a meet and greet now since the guidelines have changed." However, the facility responded with "I am not going to provide a tour for a family thinking about a request to transfer to [Center] unless directed by you or SODC (State Operative Developmental Center)."

Conclusions

Complaint 1. Inadequate treatment planning

The Mental Health and Developmental Disabilities Code (405 ILCS 5/2-102) states "(a) A recipient of services shall be provided with adequate and humane care and services in the least restrictive environment, pursuant to an individual services plan. The Plan shall be formulated and periodically reviewed with the participation of the recipient to the extent feasible and the recipient's guardian, the recipient's substitute decision maker, if any, or any other individual designated in writing by the recipient. The facility shall advise the recipient of his or her right to designate a family member or other individual to participate in the formulation and review of the treatment plan. In determining whether care and services are being provided in the least restrictive environment, the facility shall consider the views of the recipient, if any, concerning the treatment being provided. The recipient's

preferences regarding emergency interventions under subsection (d) of Section 2-200 shall be noted in the recipient's treatment plan."

The Mental Health and Developmental Disabilities Code (405 ILCS 5/3-209) states that a treatment plan "shall include an assessment of the recipient's treatment needs, a description of the services recommended for treatment, the goals of each type of element of service, an anticipated timetable for the accomplishment of the goals, and a designation of the qualified professional responsible for the implementation of the plan. The plan shall include a written assessment of whether or not the recipient is in need of psychotropic medications. The plan shall be reviewed and updated as the clinical condition warrants, but not less than every 30 days."

The individual has expressed an interest in moving to a CILA which is documented in the individual's treatment plan. Additionally, the individual has expressed a desire to live closer to his family. Furthermore, in April 2021 the guardian sent a formal request to have the individual transferred to another facility closer to family. Staff stated the guardian wanted to tour the new facility before the transfer. However, due to COVID-19, the facility was not allowing tours. Staff stated in April or May 2022, the guardian again expressed a desire to have the individual transferred to another facility closer to family. The guardian's request is documented in the treatment plan. On June 2, 2022, Choate staff sent an email to the facility that states, "We have a guardian request to tour [Center] and meet members of potential treatment teams to determine if they want to submit a request to transfer…". However, the facility responded with "I am not going to provide a tour for a family thinking about a request to transfer to [Center] unless directed by you or SODC (State Operative Developmental Center)." It does not appear Choate took any further action to help facilitate a tour of the facility or to get the individual transferred. Based on the lack of action taken by the facility in following up on the tour and transfer request, the Egyptian Human Rights Authority concludes that the complaint is **substantiated**. The Human Rights Authority makes the following **recommendations**:

1. **Choate Developmental Center follow The Mental Health and Developmental Disabilities Code (405 ILCS 5/2-102) and the individual's treatment plan by following up with the guardian's transfer request, by facilitating a tour of the new facility and by transferring the individual to a facility closer to family.**
2. **Choate Developmental Center retrain staff on the importance of The Code's rights section and provide the HRA with evidence of the training.**

Complaint 2. Inadequate medical care

The Mental Health and Developmental Disabilities Code (405 ILCS 5/2-102) states "(a) A recipient of services shall be provided with adequate and humane care and services in the least restrictive environment, pursuant to an individual services plan. The Plan shall be formulated and periodically reviewed with the participation of the recipient to the extent feasible and the recipient's guardian, the recipient's substitute decision maker, if any, or any other individual designated in writing by the recipient."

The Mental Health and Developmental Disabilities Code (405 ILCS 5/2-211) states "A medical or dental emergency exists when delay for the purpose of obtaining consent would endanger the life or adversely and substantially affect the health of a recipient of services. When a medical or dental emergency exists, if a physician or licensed dentist who examines a recipient determines that the recipient is not capable of giving informed consent, essential medical or dental procedures may be performed without consent. No physician nor licensed dentist shall be liable for a non-negligent

good faith determination that a medical or dental emergency exists or a non-negligent good faith determination that the recipient is not capable of giving informed consent."

The individual was involved in a peer versus peer incident on 6/20/22. The individual sustained a loose tooth, bleeding and swollen gums due to the incident. The individual was seen by the nurse for the injury and given an ice pack and Tylenol for his injury. Furthermore, the physician referred the individual to a dentist due to the trauma to his mouth on 6/21/22. Staff stated they contacted Choate's dentist, but the dentist was not able to see the individual due to covid-19 and being on outbreak status. A progress note dated 6/20/22 stated "Writer also called [Individual's] dentist who stated there was nothing they would be able to do, and he would need to be seen by a dental surgeon." However, the individual was seen by a community dentist on 7/28/22 for the injury to the tooth. Staff stated the community dentist was not able to see the individual any sooner since the individual was not in pain or having issues eating. Staff stated there is another dental office in town, but that office was not contacted since Choate has not worked with that office in past. The individual returned to the dentist on 8/4/22 to extract the tooth that was injured from the incident. The individual saw an oral surgeon on 10/5/22 for an implant consultation for the lost tooth. The individual received the implant on 10/17/22. The HRA believes this was a dental emergency since the individual had a loose tooth and swollen gums which would have caused, at a minimum, discomfort for the individual especially while eating. Additionally, upon the individual seeing a dentist on 7/28/22, it was discovered the tooth had become infected and the individual required antibiotics before the tooth could be extracted. Furthermore, staff stated the dentist said the tooth could not be saved. The HRA is concerned that the delay in the treatment may have led to the removal of the tooth and had a dentist examined sooner, maybe it could have been saved. Therefore, the Egyptian Human Rights Authority concludes that the complaint is **substantiated.**

1. **Choate Developmental Center follow The Mental Health and Developmental Disabilities Code (405 ILCS 5/2-102) by ensuring all patients are provided adequate and humane care by ensuring patients receive care in a timely manor especially when an injury is obtained.**
2. **Choate Developmental Center re-train staff on the importance of The Code and provide the HRA with evidence of the training.**

The HRA suggests that representatives from GAC may be able to provide such training.

RESPONSE

Notice: The following page(s) contain the provider response. Due to technical requirements, some provider responses appear verbatim in retyped format.

JB Pritzker, *Governor*

Illinois Department of Human Services

Grace B. Hou, *Secretary*

Clyde L. Choate Center
1000 North Main Street ● Anna, IL 62906

December 1, 2022

Paul Jones, Chairperson
Illinois Guardianship and Advocacy Commission
Egyptian Regional Office
#7 Cottage Drive
Anna, Illinois 62906-1669

RE: Illinois Department of Human Services Response to Human Rights Authority Case # 23-110-9003

Dear Chairperson Jones,

The Illinois Department of Human Services (IDHS), Division of Developmental Disabilities (DDD), Choate State Operated Developmental Center (the Center) accepts the HRA recommendations and suggestions and will act upon them. The Center appreciates the opportunity to work with The Egyptian Regional Human Rights Authority (HRA) to identify any issues that may need to be improved within the Center.

Regarding HRA's suggestions and our responses are as follows:

1. Choate Center follows the Mental Health and Developmental Disabilities Code (405 ILCS 5/2-102) and the individuals treatment plan by following up with the guardian's request, by facilitating a tour of the new facility, and by transferring the individual to a facility closer to family.

Response: The Center contacted the Murray Developmental Center to schedule a facility tour for the guardians to determine if the guardians wished to pursue a transfer for the individual. A tour was completed by the guardians on December 21, 2022. They loved the facility and believed it was appropriate for their son. They stated they want to move him closer to home as they live in O'Fallon. They made no decision when they were there but were advised they could contact me once they decided.

2. Choate Center follows the Mental Health and Developmental Disabilities Code (405 ILCS 5/2-102) by ensuring all patients are provided adequate and humane care buy ensuring patients receive care in a timely manner especially when an injury is obtained.

Response: In response to the injury sustained to individual in question, the Center respectfully disagrees with the finding that adequate medical care was not provided. The medical/nursing actions to support this decision are as follows:

Immediately following the injury on 6/20/22, the nurse completed an examination of the individual and subsequently called the unit MD to examine in accordance with Choate Center policy #967 "Injury Reporting". The individual was then placed on a medical 1:1 supervision for two days to monitor for discomfort and any complications that may present themselves. Following the incident, the individual was prescribed Tylenol for pain and an ice pack to control the swelling to his gums. The facility dentist was notified but was unable to examine the individual because of IDPH COVID restrictions/regulations since the unit that the individual resided on was currently on quarantine. Accordingly, the Executive Secretary, Medical Services then began the process of setting up a consult with an oral surgeon to consult with the individual. In the meantime, a local community service dentist was located, and a consult was initiated for an appointment as soon as possible. Although the injury was not construed as an emergency, the facility felt it necessary to follow up as soon as possible to get the individual thoroughly examined by a licensed dentist. Nursing followed closely and documented frequently on the individual including notes from 6/20, 6/21, 6/22, 6/28, 7/15, 7/18, 7/22, 7/25, 7/28, 7/29, 8/1, 8/3, 8/4, and 8/5. Approximately one week after the consult with the community dentist, the affected tooth was removed, and a referral was made to a specialist that specialize in dental rehabilitation including oral surgery for a possible implant of tooth #8. On 10/17/22 the implant was placed without any complications. Close monitoring from medical staff began again after the implant was placed and was noted in the folder on 10/17 x 2 and 10/18. Pain medications were offered post implant to relieve any discomfort present. As of 11/30/22 the individual has fully recovered, and the implant has been a success. Overall, the whole incident from the time the injury occurred to implant from an oral surgeon took less than 120 days with no complications noted. The individual was assessed for pain/discomfort the entire time and was given pain medication when needed. It is unclear if the affected tooth could have been saved with a consult with the facility dentist immediately or if the tooth was so severely damaged that it could not have been saved regardless.

Thank you for bringing these important issues to the attention of Choate's administrative staff team. Choate Center is devoted to ensuring the rights of the individuals that live at the facility are protected.

Best regards,

Gary Goins, Interim Assistant Facility Director of Residential Services,
Choate Developmental Center
Encl.
Cc: Bryant Davis, Facility Director